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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,289	10/30/2003	John D. Larson III	10030669-1	5397

7590 08/24/2005  
AGILENT TECHNOLOGIES, INC.  
Intellectual Property Administration  
Legal Department, DL429  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER

SUMMONS, BARBARA

ART UNIT PAPER NUMBER

2817

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ST

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/699,289		LARSON, JOHN D.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Barbara Summons		2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-9, 11-14 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 27 is/are allowed.
- 6) ☒ Claim(s) 3-6, 11-14, 24 and 26 is/are rejected.
- 7) ☒ Claim(s) 2, 7-9, 19-22 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. In view of the amendment to the claims in this application and the related application, the double patenting rejection is withdrawn.

### ***Withdrawn Claim Rejections - 35 USC § 102***

2. The amendment and arguments received June 15, 2005 have overcome the rejections based on Poirier and Ella '866, and these rejections are withdrawn.

### ***Withdrawn Claim Rejections - 35 USC § 103***

3. The amendments and arguments received 6/15/05 have also overcome the rejection based on Lakin in view of Ella '342, since Ella's polymer layers only relate to Bragg type multi-layer acoustic reflectors, and therefore, this rejection is withdrawn.

### ***New Grounds of Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11-13 are indefinite because they depend from canceled claim 10.

Should they correctly depend from claim 14? Note that they should not depend from claim 3 because then they would be identical to claims 7-9.

***Maintained Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 3-6, 14, 24 and 26 are rejected under 35 U.S.C. § 102(e) as being anticipated by Lakin U.S. 6,720,844 (of record) for reasons of record (see paragraph 9 of the prior Office action).

Fig. 3 of Lakin discloses the filter structure recited, and discloses that the filter can have only a single decoupling layer (see col. 6, lines 33-36) that is one quarter wavelength thick (see col. 6, lines 12-15), which can be chosen from the materials in Fig. 12 that have an acoustic impedance less than the piezoelectric layer and two of which have an acoustic impedance in the recited range.

***Allowable Subject Matter***

8. Claims 23 and 27 are allowable over the prior art of record.

9. Claims 2, 7-9, 19-22 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

10. Applicant's arguments filed June 15, 2005 regarding the maintained rejection above, have been fully considered but they are deemed not persuasive.

Regarding Lakin, Applicants acknowledge that Lakin discloses a decoupler with a single layer, but submit that "the over-coupled response shown in curve 83 of Lakin's Figure 8 indicates that the single layer disclosed by Lakin is not an effective acoustic decoupler" (see page 12, the sixth full paragraph of the amendment). This argument is considered not persuasive because: 1) the degree of decoupling is not commensurate with the scope of the claims that are rejected, wherein only non-rejected claim 2 recites a degree of decoupling; and 2) how much decoupling is "effective" is dependent upon the intended use of the filter, since what may not be an effective amount of decoupling for one application, would be an effective amount in another application.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara Summons whose telephone number is (571) 272-1771. The examiner can normally be reached on M-Th, M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Pascal can be reached on (571) 271-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bs  
August 22, 2005



**BARBARA SUMMONS**  
**PRIMARY EXAMINER**